



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 6/4/2019

DEPARTMENT: Public Works, Planning Division

STAFF CONTACT: Aimee Nassif, Chief Planning and Development Officer; Shelby Ferguson, Planning Consultant

SUBJECT: UDO18-0002B Amendments to Chapters 18.30 and 18.50

ITEM DESCRIPTION:

Discussion regarding Proposed Amendments to Chapter 18.30 and 18.50 of the *Unified Development Ordinance* (UDO18-0002B)

SUMMARY:

On December 4, 2018, staff presented updates to the Unified Development Ordinance (UDO) pertaining to Chapters 18.30, 18.40, and 18.50 for consideration. During the meeting, several speakers addressed the Council with concerns involving updates from these chapters pertaining to development plans, plats, and vibration standards. As a result, the Council requested further staff review and collaboration with community stakeholders. Specifically, City Council requested that information from other municipalities be gathered, that discussions continue with stakeholders to determine the best way to address the needs of the residents, and that staff revise the proposed language to address vibration standards for other industrial uses and activities other than quarries.

Since that time, staff has separated these updates into two separate projects; one dealing with vibration standards for industrial uses and quarries (Chapters 18.30 and 18.50, respectively) and another for development plans and plats (Chapter 18.40). While work is being completed on Chapter 18.40, this evening staff is prepared to present updated findings and draft language for Chapters 18.30 and 18.50.

When staff presented proposed language regarding quarry blasting vibrations to Council in December 2018, two main recommendations existed for the quarry blasting provision in UDO Section 18.50.160: first, updating the setback requirement; and second, removing UDO standards inconsistent with the national blasting standard adopted by Title 16 of the Olathe Municipal Code for Fire Prevention. Recommendations for updates to this Chapter have not changed since the December discussion and this language is included in this report for your consideration. Regarding vibration for industrial uses other than quarries and mines, for the past several months, staff has researched the issues to respond to the feedback from Council in December 2018. Staff has completed additional local and national research, conducted various stakeholder meetings and additional discussions with industry representatives, and completed research to determine best practices, improve consistency between code sections, and ensure alignment with the City's goals and direction specific to blasting and vibrations.

Attachment A is a result of collaboration with community stakeholders and additional research. Recommended language for Section 18.30.190 which has changed since our last meeting with the City Council is shown in green text. As stated previously, recommendations for Section 18.50.160 remain unchanged.

1. 18.30.190 Performance Standards - Vibration

Section 18.30.190.C. of the UDO provides performance standards for all activities in any industrial district. However, blasting specific to quarries and mines has its own set of requirements under a different chapter (Ch. 18.50). To improve readability, staff recommends adding language directing the reader to the chapter applicable to quarries and mines.

- In addition, staff has added language here to improve transparency in requirements pertaining to when a situation may be considered a nuisance. Specifically, a duration of time (3 consecutive minutes) has been added, and an exception for motor vehicles, trains and aircraft incorporated in.

While the values for ground vibration currently exist within the UDO, collaboration from our stakeholder meetings resulted in a collective understanding that the duration of time should be updated and clearer. This 3-consecutive-minutes time period is also consistent with how other local (and nonlocal) municipalities regulate vibrations. This research will be shared during staff's presentation before the Council.

Review of this chapter also provided an opportunity to clarify when placement of a vibration measuring system is required for any industrial user or site. Industrial zoned properties are not automatically required to install a measuring system, but instead may be asked by the City to install one if deemed necessary due to complaints received by the City.

Lastly, through our stakeholder meetings, we learned that language for how to measure vibration is currently out of date. Therefore, staff recommends removing existing language and replacing it with a reference to the International Society of Explosive Engineers (ISEE) Field Practice Guidelines For Blasting Seismographs and other applicable guidelines. The ISEE guide is referenced and adhered to for seismographs associated with both non-blasting and blasting activities.

2. 18.50.160 Quarries and Mines - Blasting

Updates for this Chapter remain unchanged from what was previously recommended in

December.

As previously presented, staff recommends applying the national blasting standard adopted by Title 16 of the Olathe Municipal Code for Fire Prevention to quarrying and mining operations. The National Fire Protection Association blasting standards (NFPA 495) establish blasting vibration limits for structures, with the drywall construction limit being 0.75 ips (inches per second), and the plaster construction limit being 0.50 ips.

These NFPA limits already adopted by the City of Olathe protect against structural damage and do not represent a nuisance standard. When desired, stricter requirements for nuisance (or zoning) can be applied to a site-specific operation with the governing Special Use Permit (SUP). Staff's recommended language from December 2018 clarifies that an SUP may include stricter vibration limits. This is consistent with current, active SUP regulations as well as how other municipalities address these concerns.

Lastly, to improve readability, staff recommends clarifying the setback requirement to state that it is measured from the residential property line.

In addition to this report, staff has prepared an updated presentation to provide additional details during the meeting on June 4, 2019.

A list of current updates for your consideration for the following sections of the UDO are as follows:

1. Chapter 18.30 Development Standards
Section 18.30.190 Performance Standards

- i. Subsection C.1 clarify which zoning districts and uses are subject to subsection C.
- ii. Subsection C.1 add a duration of time for how long ground vibration can be transmitted.
- iii. Subsection C.2 add language to clarify the city may request the owner or operator to install a measuring system.
- iv. Subsection C.3 add language to clarify what standards the measuring system for vibration should adhere to.

- v. Subsection C.3 remove formula for computing vibration.
- vi. Subsection C.4 remove unnecessary verbiage.
- vii. Subsection C.5 update and move exemption language to new subsection C.4.
- viii. New subsection C.4 add language for activities exempt from vibration standards of subsection C.
- ix. New subsection C.4 add language directing the reader to Section 18.50.160.

2. Chapter 18.50 Supplemental Use Regulations

Section 18.50.160 Quarries and Mines

- i. Subsection B add language referencing the Title 16 of Municipal Code (NFPA) requirements which must be followed.
- ii. Subsection D.1.b clarify setback requirements for above ground operations.
- iii. Subsection D.4 remove unnecessary verbiage.
- iv. New subsection D.5 add and clarify setback requirements removed from subsection D.4.
- v. Subsection F remove vibration standards for consistency with Title 16 of the Municipal Code.

Included in this packet you will find a comment letter provided by Randy Kriesel pertaining to concerns with a test blast that occurred on October 19, 2018. No additional letters have been received in response to the updated draft language since our collaboration meetings and discussions with the stakeholders. Staff has also provided copies of this packet to all stakeholder that have been engaged with.

Attachment A contains all the proposed updates for Chapters 18.30 and 18.50. Attachment B is a copy of the previous CAI prepared for the December 4, 2018 meeting. The Planning Commission recommended approval of all proposed UDO updates associated with Chapter 18.50.160 on November 26, 2018 by a vote of 7-0.

FINANCIAL IMPACT:
None

MEETING DATE: 6/4/2019

ACTION NEEDED:

1. Discuss the proposed amendments. Unless otherwise directed, staff will place Ordinance No. 19-XX (UDO-0002B), on the June 18, 2019 City Council agenda for formal consideration.

ATTACHMENT(S):

- A. UDO Chapters with redline draft
- B. December 4, 2018 City Council Packet
- C. Public Comment from Mr. Kriesel